

Brownfields Redevelopment

Commercial developers and economic development officials are becoming more aware of the potential redevelopment value of brownfields, or parcels of land with real or perceived contamination.

These sites offer advantages, such as access to existing infrastructure and transportation systems. Moreover, they are often close to major population centers, placing companies near customers and potential workers. Looking at the big picture, many developers have found brownfields can be as attractive as undeveloped land.

Federal, state and local governments have also realized that they can play a role in returning these brownfields sites to new uses. Governments have stepped in and offered a wide variety of assistance, ranging from low-cost financing to tax incentives. The end result has been many successful projects and an improved quality of life for nearby residents.

The Brownfields Tax Incentive

The Brownfields Tax Incentive encourages brownfields redevelopment by allowing taxpayers to immediately reduce their taxable income by the cost of their eligible cleanup expenses in targeted areas. This incentive creates an immediate tax advantage from these expenses, helping to offset short-term cleanup costs.

This brochure will give you an overview of the incentive, which was created by the Taxpayer Relief Act of 1997.

More specifically, it will describe:

- **Who** can use the incentive
- **Where** properties must be located
- **What** contaminants must be present, and what expenses may be deductible
- **How** to seek state verification to use the incentive
- **Where** to find other information on the incentive

1. Taxpayer eligibility requirements

If you wish to use the tax incentive on a brownfields redevelopment project, you must meet the following eligibility requirements:

- The property must be held by the taxpayer.
- The taxpayer must hold the property for business or income generation purposes.

2. Property location requirements

The tax incentive program is designed to create economic growth in disadvantaged areas by encouraging the redevelopment of brownfields.

As a result, the tax incentive primarily targets areas with low household income, as well as areas that have shown a historical commitment to brownfields redevelopment.

Your property qualifies for the incentive if it lies in one of the following areas:

- Census tracts with a poverty rate of 20% or more.
- Census tracts with populations of less than 2,000, where more than 75% of the tract is zoned for commercial or industrial use. The tract must also be located next to other census tracts with poverty rates of 20% or more.
- All Federally designated Empowerment Zones or Enterprise Communities.
- Brownfields pilot sites designated by the EPA prior to February 1997.

To determine whether a property meets these criteria, visit the EPA web site at www.epa.gov/brownfields or request a copy of the Brownfields Tax Incentive Guidelines from a designated state agency. These agencies can also be found on the EPA web site or by calling the EPA Brownfields Office at (202) 260-4039.

3. Contamination eligibility requirements

The tax incentive may be used as long as the property is an area at or on which there has been:

- A release or a threat of release of a hazardous substance, or
- Disposal of a hazardous substance.

Hazardous substances include a variety of contaminants that are regulated under the Comprehensive Environmental Response, Compensation and Liability Act. You should consult an environmental attorney to determine if the contamination at your site qualifies for the incentive.

The tax incentive excludes products in a building's structure (such as asbestos or lead-based paint) that lead exclusively to indoor exposure.

In addition, the site may not be listed or proposed for listing on EPA's National Priorities List.

4. Deductible expenses

Generally, taxpayers may deduct expenses that are paid or incurred in connection with the abatement or control of hazardous materials. Types of eligible expenses include:

- Site assessment and investigation
- Site monitoring
- Cleanup costs
- Operations and maintenance costs
- State voluntary cleanup program oversight fees
- Removal of demolition debris

All eligible expenses must be incurred after August 5, 1997 and before January 1, 2001.

5. State verification requirements

In order for the Internal Revenue Service (IRS) to accept deductions on your tax return, a designated state agency must verify that the property meets the geographic and contamination criteria described above.

Your state agency will not charge you a fee, but it will ask you to fill out an application and possibly submit some documentation. Once the verification is issued, the IRS will consider it valid for life of the tax incentive. In order to claim the deduction, you need simply write "Section 198 Election" on your income tax return on the line where you claim the deduction.

It is important to note that the state agency can only verify that a property is eligible. To determine whether a specific expenditure is eligible, you should consult a tax attorney.

State contact information is located on the EPA website at www.epa.gov/brownfields/contacts.htm.

6. For more information

Additional information on the Brownfields Tax Incentive is located on the EPA website at www.epa.gov/brownfields.

The website includes information on the following:

- Responses to Frequently Asked Questions (FAQ's) on the Brownfields Tax Incentive.
- Sources and tools to learn whether your property lies within one of the targeted geographic areas.
- Designated state agency contacts.

Additional information can be located by calling EPA's Brownfields Office at (202) 260-4039 or HUD's Community Connections at (800) 998-9999.



The Brownfields Tax Incentive

**What's In It
For you?**

